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Sent: 9/30/2021 1:38:40 PM
To: Gervais, Gregory [Gervais.Gregory@epa.gov]
Subject: Interesting Article - Potentially relevant to ORR EMDF discharge limits under CWA TBELs

Biden EPA Effluent Plan Highlights Push For Stricter CWA Permit Limits

September 28, 2021

The Biden EPA's proposed plan to update several industrial sectors' technology-based effluent limits marks a shift in the agency's approach to effluent limitation guidelines (ELGs), reflecting both pressure from environmentalists for stricter regulation and technological advances necessary to set first-time limits for per- and polyfluoroalkyl substances (PFAS).

The Trump administration had eyed potential PFAS ELGs for at least some industrial sectors, but the lack of a verified laboratory testing method slowed any regulatory efforts because regulators would be unable to ensure the technology-based Clean Water Act (CWA) permit limits were being met.

Additionally, the lack of a verified testing method meant data were limited on the amount of PFAS being discharged by numerous industrial sectors.

But EPA recently developed draft test methods for a variety of media, including wastewater, setting the stage for establishing PFAS ELGs.

New EPA Draft Testing Method Opens Door To PFAS Discharge Limits

EPA has published its first draft laboratory analytical method to test for 40 per- and polyfluoroalkyl substances (PFAS) in eight different environmental media, including wastewater, surface water and soils, a long-awaited action that will allow the agency and states to set wastewater and stormwater discharge limits for the chemicals.

Draft Method 1633, once officially promulgated, will allow EPA and states to develop site-specific water quality-based effluent limits and allow EPA to set technology-based effluent limits for a range of industry sectors through the ELG program.

Promulgation of the test method will require its use for CWA compliance monitoring, but EPA is strongly encouraging its use now in National Pollutant Discharge Elimination System permits ahead of official promulgation.

And just days after announcing the new test methods, the agency released its Preliminary Effluent Guidelines Program Plan 15, which announced three new ELG rulemakings, new studies on PFAS discharges from landfills and manufacturers of textiles and carpets, and updates on plans to revise ELGs for power plants.

Facing Criticism, EPA Plans To Revise ELGs To Target PFAS, Nutrients

EPA is planning to revise technology-based limits on discharges from the chemical manufacturing and metal finishing sectors to address per- and polyfluoroalkyl substances (PFAS) for the first time, and to revise discharge limits for slaughterhouses to reduce nutrients, handing a win to environmentalists who are pushing to toughen such standards.

The Trump EPA in its ELG Plan 14, which was finalized in January, targeted the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) category for continued study and added the Metal Finishing category to a multi-sector study of PFAS discharges.

The Biden EPA earlier this year took comment on an advance notice of proposed rulemaking to identify industrial sources that may warrant further study for potential regulation of PFAS through national ELGs, with drinking water utilities and environmentalists urging the agency to look beyond the OCPSF sector.

And the agency says in the draft plan that it intends to revise the metal finishing ELGs to address PFAS discharges from chromium electroplating facilities, while continuing to study other sectors.

The Biden ELG plan also calls for updating slaughterhouse ELGs, some of which date back to the 1970s, in order to reduce nutrient pollution, an issue where environmentalists have long pressured the agency to act. Portions of the ELGs for the Meat and Poultry Products category,

which covers slaughterhouses, meat processing plants and rendering operations, were last updated in 2004, although other aspects of the regulatory requirements are older.

In a fact sheet accompanying the proposed ELG Plan 15, EPA says, "The data indicate that this industry discharges the highest phosphorus levels and second highest nitrogen levels of all industrial categories, causes treatment problems at publicly owned treatment works receiving wastewater discharges, and that the existing ELGs only apply to a small portion of the operating facilities nationwide."

Environmentalists had sued the Trump EPA for failing to update the slaughterhouse ELGs, and EPA and the environmentalist plaintiffs in *Cape Fear River Watch, et al. v. EPA* recently told the U.S. Court of Appeals for the 4th Circuit that they are discussing what the next steps should be in the litigation in light of the agency's plan to now update the ELGs.

While environmentalists have commended the agency for finally moving to reduce nutrient pollution from slaughterhouses, they remain concerned that dozens of other industrial sectors have outdated ELGs and are pressing EPA to set new discharge limits for these sectors in order to comply with the intent of the CWA.

Environmentalists Press EPA To Update Scores Of Industrial Effluent Limits

Dozens of environmental groups are urging EPA to update technology-based effluent limitation guidelines (ELGs) for scores of industrial dischargers, saying the agency's "fundamentally flawed" approach to reviewing the rules has led it to keep in place dozens of rules that are at least 30 years old, despite a statutory duty to revise the limits as needed.

"While we applaud EPA's recent determination that the ELGs for three industries warrant revision, the fact remains that the Agency is not carrying out its annual review and revise duties as required by Congress," 61 groups led by the Environmental Integrity Project write in a Sept. 22 letter to EPA.

ELGs set minimum standards for the "best available technology" in wastewater treatment that regulators incorporate into facilities' discharge permits. EPA currently has sector-specific ELGs in place for 59 industries, 50 of which have been covered since the 1970s or 1980s.

But the groups say that after it issued that wave of rules, the agency has failed to tighten the limits as new, more effective treatment methods become available, despite a mandate in the CWA to review each ELG periodically. That failure, they argue, is one of the reasons so many rivers, streams and estuaries are so far from achieving the goals promised by the CWA.

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